



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 348X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Tipton and Howard Counties, Ind.

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over an approximately 10.8-mile rail line between milepost I-41.0 (north of Market Road near Tipton) and milepost I-51.8 (near the intersection of E. Lincoln Road and Home Avenue, in Kokomo), in Tipton and Howard Counties, Ind. The line traverses United States Postal Service Zip Codes 46068, 46072, 46901, and 46902.

NSR has certified that: (1) no local traffic has moved over the line for at least two years; (2) no overhead traffic has moved over the line for at least two years, and if there were any overhead traffic, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 13, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2)¹ must be filed by June 24, 2013.² Petitions to reopen must be filed by July 3, 2013, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).

² Because NSR is seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

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Decided: June 7, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner

Clearance Clerk

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